IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 672 of 1992

with

SPECIAL CIVIL APPLICATION No 675 of 1992
TO
SPECIAL CIVIL APPLICATION No 679 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIVJYA JYOTI SEVASHRAM

Versus

GOVERNMENT OF GUJARAT

Appearance:

1. Special Civil Application No. 672, 675 & 676 of 1992
MS KC THAKKAR for Petitioner No. 1
MS DS PANDIT, AGP for Respondent No. 1-3

2. Special Civil Application No. 677 to 679 of 1992
MR KC THAKKAR for Petitioner No. 1
MR AMIT KOTAK, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 04/09/2002

ORAL JUDGEMENT

1. Since this group of petitions involve identical questions of fact as well as law, they have been heard together and now they are being disposed of by this common judgment.

2. The petitioners are trusts and they are running post basic schools. Petitioners have obtained necessary permission for running the said schools from the Gujarat Secondary Education Board. It is the say of the petitioner that for imparting education in the subject of agriculture they are in possession of agricultural lands. It is the say of the petitioners that they are entitled to receive grant from the respondents under the provisions of Grant in Aid Code. The petitioners' grievance is that the grant which was being made available to the trusts to run the aforesaid schools till 1988-89, all of a sudden it was stopped on the ground that the petitioners did not possess 15 acres of lands as required under the provisions of rule 125 of Grant in Aid Code. The respondents have misinterpreted the provisions of rule 125 of the Grant in Aid Code to hold that the concerned institution should own 15 acres of agricultural land for the purpose of teaching agriculture as main craft.

2.1. This rule has been considered by the learned Single Judge of this Court [Coram : R.K. Abichandani, J.] in the case of Sanskarbharti Amrapur v. Government of Gujarat reported in 2001 (1) G.L.H. page 255. It has been held in that decision that the said rule only requires maintenance of 15 acres of land by the concerned institution for the purpose of teaching agriculture as being craft and the rule does not say that such land should be owned by the said institution. According to the learned Single Judge, in the institution which is in possession of the 15 acres of agricultural land either on lease or by ownership it does not make any difference so long the land is 15 acres agricultural land.

2.2. In the present petitions, the extent of land held by the petitioners can be stated as under :-

S.C.A. No. Land held by petitioner

672 24 acres

675 12 acres

676 20 acres

677 07 acres

678 14 acres
(10 acres are for agricultural
purpose).

679 14 acres

3. Ms. K.C. Thakkar, learned counsel for the petitioners submits that in some cases even when the petitioners held or possessed more than 15 acres of land the grant has been denied to them. She has further contended that even in the cases where the land maintained by the concerned institution is not to the extent of 15 acres, the respective Panchayats have shown their willingness to give balance of the land for the purpose of the school. She has also drawn my attention to the decision taken by the Department of Education, Government of Gujarat dated 22nd August, 1988 whereby it has been decided to make some relaxation in the provisions of rule 125 and to release grant in favour of even the institutions which do not for the relevant period maintained 15 acres of land subject to the condition that such institution should acquire the balance land within a period of three years. She has also contended that considering the fact that in view of several questions of fact would be required to be seen, the petitioners are prepared to make representations to the concerned authority to enable it to take appropriate decision on this behalf.

4. In the decision cited by Ms. Thakkar, this Court has directed the concerned authority to take fresh decision in light of the observations made in that decision. It appears from the record of the petitions that no specific written order has been passed by the respondents and the grant has been simply discontinued after the year 1988-89. In view thereof, the petitioners are directed to make appropriate representations to the concerned authority of the respondents on or before 15th December, 2002 and as and when such representations are made, the concerned authority should take appropriate decision in the light of the material that may be produced by the petitioners alongwith the representations and the observations made and ratio laid down by this Court in the aforesaid decision. The respondents are

also directed that the concerned authority before taking any such decision afford proper opportunity of hearing to the petitioners. The said authority is directed to take decision on the representations on or before 30th January, 2003.

In view of the aforesaid directions, the decision of the respondents to discontinue the grant is quashed and set aside. All these petitions, therefore, stand partly allowed. Rule made absolute to the aforesaid extent in each petition with no order as to costs.

[Akshay H. Mehta, J.]

* Pansala.